

No. 14/13/87-6Lab./202.—In pursuance of the provisions of section 17 of the Industrial Disputes Act, 1947 (Central Act No. XIV of 1947) the Governor of Haryana is pleased to publish the following award of Presiding Officer, Industrial Tribunal -cum-Labour Court, Rohtak in respect of the dispute between the workman and the management of M/S Secretary, H.S.E.B., Panchkula *versus* Sh. Dal Singh.

IN THE COURT OF SHRI P. L. KHANDUJA, PRESIDING OFFICER, INDUSTRIAL TRIBUNAL
CUM LABOUR COURT, ROHTAK

Reference No. 285 of 1992.

between

SHRI DAL SINGH S/O SHRI KISHNA RAM C/O PRESIDENT, BHARTIYA MAZDOOR SANGH,
G. T. ROAD, PANIPAT, .. *Workman*

and

M/S. SECRETARY, H.S.E.B., PANCHKULA. (2) M/S. EXECUTIVE ENGINEER, S.I.C. DIVISION,
H.S.E.B., KARNAL. .. *Management*

Present :

Shri Karan Singh, A.R. for the workman.

Shri S.S. Sirohi, L.O. for the management.

AWARD

In exercise of powers conferred by Sub Clause (c) of Sub Section (1) of Section 10 of the Industrial Disputes Act, 1947, the Governor of Haryana has referred the following dispute, between the parties, named above, to this Court for adjudication *vide* Labour Department Notification No. 3/25/90-3 Lab., dated 29th October, 1991 :—

“Whether the termination of services/retrenchment of Shri Dal Singh is justified and in order ?
If not, to what relief he is entitled ?

2. The workman and the management were summoned. The workman appeared and relied upon demand notice under Section 2-A of the I.D. Act which is that the workman was appointed w.c.f. June, 1981 on the basic pay of Rs.391/- but he was issued retrenchment notice ; the workman has completed more than 240 days in a year and he was not paid the retrenchment compensation as required under Section 25-F of the I.D. ACT. He was paid the bonus after retrenchment which is also illegal and liable to be set aside. the workers who were appointed after 1982 are still working, hence this demand is filed for reinstatement of service with continuity of service and full back wages.

3. Reply to the demand notice was filed by the management that the reference is bad in law as the applicant was casual labour and the I.D. Act is not applicable ; that the reference is bad on account of laches and delay ; that the writ petition has been dismissed by the Hon'ble Supreme Court of India as such the present reference is not maintainable ; the petitioner was engaged on daily wages as casual labourer in June, 1981 and was paid according to the number of days he worked in a month upto 31st August, 1983 ; the services of petitioner were not required on account of non availability of material and completion of work on which he was employed ; no Junior person to him has been taken or kept back in service, hence this demand notice is liable to be dismissed with costs .

4. Replication was filed by the workman. On the pleadings of the parties, the following issues were framed :—

1. Whether the impugned termination of services of the workman is invalid ? OPW.
2. Whether reference is not maintainable as alleged in preliminary objections of the W.S.? OPM.
3. Relief.

5. My findings on the above issues with reasons thereof are as under :—

Issue No. 1 :—

6. The workman has come into witness box as WW-1 and closed his evidence. The management has examined Shri Rameshwar Dass, U.D.C. as MW-1 and closed their evidence.

7. The question involved in this case for decision is whether the workman was appointed for particular work and the work had finished and thereafter there was no alternative except to relieve the workman from the job. To prove that the workman was appointed for particular work, the management has examined Shri Rameshwar Dass Clerk and who made the statement that the work of the applicant was retrenched on 1st September, 1983 because of lack of the workman and the workman was given retrenchment notice etc. but he refused, the copy of which Ex. MW-1/1 and Ex. MW-1/2. He also made statement that after termination of the workman Shri Rameshwar Chand was employed in the Division and no application was received from the applicant for appointment after his termination of service. Mr. Rameshwar Dass could not tell as to how much amount was paid to the workman as retrenchment compensation without seeing the official record which was not brought on that day in the Court. He also made statement that retrenchment notice was issued and sanction from Government regarding retrenchment of the workers was sought but he had not brought the record so he could not tell as to when the retrenchment notice was issued. He also made statement that the workers had come to join the service again as per order of the Court. So he could not tell after closure of the S.I. Division when the applicant was transferred to this Division. He also could not bring the seniority list and he could not tell as to at what number of applicant is and at what number Ram Phal is.

8. On the other hand the applicant had made the different statement that he was posted on 1st December, 1990 and worked upto 31st August, 1983 and he was removed from job without any notice, notice pay and retrenchment compensation etc. He also made statement that after removal of workman two person namely Jashwant Singh and Mahabir Singh were appointed. So the workman admitted that he was working in S.I.O. Division of H.S.E.B., Karnal and this Division was closed. After that some of the workers were transferred to other Division.

9. From the evidence it is proved that the workman had served for more than 240 days in a year and it is not proved that the workman was given the notice, notice pay or retrenchment compensation while removing from the job. It is proved that as the workman had served for more than 240 days in a year, his services could not terminated without compliance of Section 25-F of the I.D. Act. Then the management has not specifically denied the allegations of the workman that he serviced the management for about 240 days in a year. The workman brought to the notice the case law of Gurmeet Singh and others *versus* Indian Iron Steel Co. Ltd., and others cited in 1994 Lab. I. C., 43.

10. He also referred the case of Hussainbhai *versus* Alath Factory Tozhilali Union and others decided by the Hon'ble Supreme Court on July 28, 1978 regarding the relationship of Master & Servant between the parties, which is not applicable to the facts of case.

11. It is proved that as the workman had served for more than 240 days in a year and his services were terminated without compliance of Section 25-F of the I.D. Act which the management could not do it. I hold that the termination of the workman is illegal. As such I accept the reference petition and decide this issue in favour of the workman and against the management.

Issue No. 2 & 3 :

12. Both these issues are not pressed or argued by the parties. Hence I decide both these issues against the management.

Issue No. 4 (Relief) :

13. In view of my findings on the above issues I accept the reference petition of the workman and direct the management to re-employ the workman with 30% of back wages from back date. The reference is answered and returned accordingly, with no orders as to costs.

The 3rd June, 1994.

P. L. KHANDUJA,

Presiding Officer,
Industrial Tribunal/Labour Court, Rohtak.

Endstt. No. 1412-13, dated 6th June, 1992

A copy is forwarded to the following :—

1. Labour Commissionr, Haryana, Chandigarh .
2. Labour Officer, Karnal.

P. L. KHANDUJA

Presiding Officer,
Industrial Tribunal/Labour Court, Rohtak.